

I want to begin this morning by sharing some thoughts on subpoenas.

I think many of my colleagues know that I take some pride that as Chair of the Energy and Commerce Committee's Health Subcommittee from 1979 to 1994, I never issued a single subpoena. That doesn't mean we didn't conduct investigations, we did, including important inquiries into the Bush and Reagan Administrations and the tobacco industry. But we were never forced to issue a single subpoena to get the information we needed.

That's important to me because I believe subpoenas are one of the most powerful tools of government. They compel others to turn over information, essentially against their will, to the government. It is an essential power but it is one best used as a last resort.

I feel especially strongly about this because I've seen this Committee abuse the subpoena power.

From 1997 to 2002, Chairman Dan Burton issued 1,052 subpoenas to the Clinton Administration and Democratic targets. None of those subpoenas was debated or voted on in this Committee: all were issued unilaterally by the Chairman.

Some were ridiculously overbroad; others were issued to victims of mistaken identity. And over two million pages of documents were given to the Committee in response to those subpoenas.

In 1997, Chairman Burton organized the Committee on February 12. By today's date in 1997, April 25, Chairman Burton had already unilaterally issued 104 subpoenas, including six to the Clinton White House. That's 104 subpoenas in 72 days. If you exclude weekends, that works out to about two subpoenas every day he was Chairman.

When President Bush took office in 2001, I saw the other extreme. In 2001 and 2002, Chairman Burton didn't issue a single subpoena to the Bush White House. The only subpoenas he issued involved requests for documents involving prior administrations.

From 2003 to 2006, my friend Tom Davis chaired this Committee. He knows the admiration I have for him. I've often said he did more investigating than all the other House Republican chairmen combined.

But the fact is, he also did not use the subpoena authority of this Committee in the way I thought appropriate. His approach was the polar opposite of Chairman Burton's during the 1990s: there was too little use of the subpoena under Chairman Davis.

In four years, Chairman Davis issued a total of just five subpoenas to the Bush Administration. Two were to the Department of Energy in a Yucca Mountain investigation; one was a subpoena Democrats requested relating to the Development Fund for Iraq; one was a subpoena Democrats requested relating to the treatment of a Defense Department whistleblower. He also issued one subpoena that Democrats requested relating to Jack Abramoff. And in his capacity as Chairman of a separate select committee that examined Hurricane Katrina matters, he issued a subpoena to the Department of Defense.

No subpoenas were issued to the Bush White House.

Think about that contrast: 1,052 subpoenas to the Clinton Administration and Democratic targets compared to just 5 subpoenas to the Bush Administration.

This Committee has lived at two extremes. And neither has served the public well.

As Chair, I don't want to be at either extreme. I want this Committee to be independent, as nonpartisan as possible, and fact-driven. My goal is to conduct investigations without subpoenas. But if we are stonewalled, we can't hesitate to use the power we have.

We originally had four matters scheduled for today, but we will only consider two at this meeting.

Yesterday the White House substantially complied with our request relating to MZM, so there is no need to consider that issue today.

Also yesterday, Fred Fielding, the White House Counsel, made a constructive suggestion in a letter relating to the Committee's interest in questioning former White House Chief of Staff Andrew Card. He suggested that the Committee interview the head of the White House Office of Administration before we consider whether we need Mr. Card's testimony.

I have some concerns about how such an interview would be conducted. For example, it would need to be an on-the-record interview that is transcribed by a court reporter. But because Mr. Fielding's offer may provide an opening to resolve this matter without a subpoena, I will postpone consideration of the Card subpoena until tomorrow so that I have a chance to talk further with Mr. Fielding.

That leaves two issues for today. Since the Committee's hearing with GSA Administrator Lurita Doan on March 28, we have been trying to reach agreement with the RNC on receiving relevant materials. The Committee's interest is simple: some White House employees were using RNC computers for their official communications.

We are interested in a limited set of documents from the RNC. We are asking for materials relating to the PowerPoint presentation White House official Scott Jennings made to the General Services Administration and other federal agencies, and we asking for materials that might have subverted the Presidential Records Act.

We have tried to be as targeted as possible, and I had hoped we could work this out cooperatively. That does not seem to be possible. This morning, the RNC sent a last-minute letter before our meeting, but provided no additional information beyond a partial list of some of the White House officials who held RNC e-mail accounts. We still don't have the full list of the 50 to 60 White House officials who held these accounts. And instead of being told how many e-mails the officials sent and received, the RNC has informed us that it has gathered "approximately 25,500,000 kilobytes of e-mail data." While I appreciate knowing the number of kilobytes of data the RNC has, that obviously isn't responsive to our requests.

So we will consider a motion on this matter this morning.

The second issue mystifies me. For four years, I have been trying to get information from Condoleezza Rice on a variety of issues, including the reference to uranium and Niger in the President's 2003 State of the Union speech.

In the last seven weeks, I have sent four letters to Secretary Rice and received three responses from her staff. My request is simple: I would like Secretary Rice to suggest a date that would be convenient for her to testify before our Committee.

Secretary Rice has already testified before House and Senate committees seven times this year. There is nothing extraordinary about our Committee's request. But we have hit a brick wall with the Secretary of State. She will not propose a date to testify, she will not agree to testify, and she insists that our Committee be satisfied with partial information that was previously submitted to other committees.

The White House is not known for welcoming oversight. But at least the White House is providing the Committee with the MZM documents the Committee has sought and has made an overture to advance the Committee's inquiry into the White House Security Office. Secretary Rice has taken none of these steps.

I regret — I deeply regret — that the Secretary of State is giving us no choice but to proceed with a subpoena.

I understand that some members on the Republican side may not agree with the motions I am making today. That of course is their right. But I urge all members to recognize the new approach I am trying to bring to this Committee.

Under the rules of this Committee, the Chairman has the power to issue subpoenas without debate or votes in the Committee. That is what Dan Burton used to do. In fact, that is what he did over 1,000 times.

But I am taking a different approach today. I believe the entire Committee should have a chance to participate in the subpoenas we will consider today.

### **Documents and Links**

- [Chairman Waxman's Opening Statement](#)